IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

WP(C).No. 8703 of 2007(J)

PETITIONER:

MANJURANI.P., D/O.SASANKA MANIDHARAN,
AGED 30, PADMAVILASAM, HOUSE NO.42,
VIDYANAGAR, PATTATHANAM POST, KOLLAM 691021.

BY ADV. SRI.JOHNSON MANAYANI

RESPONDENTS:

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1. KERALA PUBLIC SERVICE COMMISSION,
PATTOM PALACE P.O. TRIVANDRUM 695004,
REP.BY ITS SECRETARY.

2. THE CHAIRMAN, KERAL PUBLIC SERVICE
COMMISSION, PATTOM PALACE P.O., TRIVANDRUM
695004.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.8703 OF 2007

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Dated this the 11th day of April, 2007

JUDGMENT

First respondent invited applications for the post of Lecturer in Physical Education. Petitioner applied for the post. She was included in the supplementary list for Ezhava. According to her, she was waiting for the interview card. According to the petitioner, she met her friend on 5.3.2007, who also appeared for the written examination. While talking with her friend she informed the petitioner that the interview was over in February, 2007. According to the petitioner, she was not served with any intimation. Petitioner seeks a direction to command the respondents to conduct an interview for the petitioner for the post of Lecturer in Physical Education. She also seeks a direction to keep one post of Lecturer in Physical Education.

2. Counter affidavit is filed by the respondents. Therein the stand taken by the Commission is that individual memos were sent to all the candidates including the petitioner. The petitioner was called for interview on 2.2.2007. It is further stated that details of the

interview was made available in the print and electronic media and the news item was published in all the leading dailies on 24.1.2007 and 25.1.2007, true copy of the same is produced as Ext.R1(a). Counsel for the PSC relied on the unreported judgment in W.P.(C) 12186 of 2005. He also relied on the decision reported in **Raghavan v. Public Service Commission** (1985 K.L.T. 880) for the proposition that notice need not be sent by registered post. A learned Single Judge of this court has taken the view in a similar case that such service is sufficient, that the candidate cannot have any complaint.

3. Petitioner has filed a reply affidavit, where she has stated that she has not been served with interview memo and memo was sent by ordinary post. There is no proof to show that the PSC had sent the interview card. It is stated that the news item in Ext.R1(a) is least prominent. It is stated that the approach of the PSC is inhumane. Selection process is done after 12 years. Reliance placed on the unreported decision in W.P.(C) 12186 of 2005 is stated to be not passed considering Ext.P5 and its specific mentioning about the individual notice. It is further stated that even after the judgment in the

said case PSC failed to mention the said judgment and to caution the applicants about the paper release and to watch the news papers about the interview. Thereafter petitioner has produced Exts.P7 and P8. Ext.P7 is an application given by the mother of the petitioner before the Postal Superintendent and Ext.P8 is the reply. In the reply it is stated that enquiries were made. It is further stated that no record is being kept for the receipt or delivery of ordinary articles, and that all the letters received at the Post Office are being delivered correctly. It is stated that it is presumed that the letter under complaint is not received for delivery.

4. Heard counsel for the petitioner and the learned Standing Counsel.

5. Learned counsel for the petitioner Sri. Johnson Manayani would contend that selection is being done after 12 years. Petitioner is included in the supplementary list and she was having in mind the statement in Ext.P5, wherein it is stated as follows:

> "The date, time and place of interview will be intimated in due course."

Learned counsel would submit that, in such circumstances the petitioner expected that she would be intimated regarding the date and time of the interview. It is submitted that the alleged memo issued by the PSC was not received. She would further submit that the reference to Ext.R1(a) may not be justifiable having regard to the least prominence given to the item in the paper. He would also reiterate that the judgment relied on by the PSC is an unreported decision and the principle in the said judgment was unknown to the parties. What learned counsel for the petitioner submits is that when it is specifically stated in the short list that candidates will be intimated, she was expecting intimation personally to her and intimation by publication in the newspaper being approved by this court, that fact would have been more specifically stated in the short list, in which case the party could have been more alert. I am of the view that in view of the fact that this court has upheld the view taken by the PSC that there is no need for intimation by registered post, obviously service of the intimation can be by ordinary post. Of course learned counsel for the petitioner submits that at present service by courier is legalised. It may be true

that it is open to the Commission also to resort to service by courier. But that by itself may not justify interference in this matter as apparently going by their version they have issued individual memo to the petitioner regarding the date of interview. Going by Ext.R1(a) they have published it in the newspaper. Ofcourse petitioner denies receipt in which case at best it becomes a disputed question of fact which I would think it may not be open to resolve by me in this proceedings. In such circumstances, I would think that petitioner has failed to make out a case for interference.

It is dismissed.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.